

2008

## CGRS Annual Report 2008

UC Hastings Center for Gender & Refugee Studies

CENTER FOR  
**Gender & Refugee**  
STUDIES

University of California, Hastings College of the Law



2008 ANNUAL REPORT

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The Center for Gender and Refugee Studies (CGRS) works to advance women’s rights through a broad agenda focused on protecting women asylum seekers in the U.S., while simultaneously addressing the root causes which force them to flee their home countries.

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## Letter from the Director

Dear Friends,

As we approach the ten year anniversary of CGRS, I reflect on the progress we have made, as well as the distance still to travel in order to assure protection to women and girls fleeing persecution in their home countries. The issue of protection for women refugees has been a contentious one in the national discourse. The long and protracted struggle for asylum for Rody Alvarado, the Guatemalan asylum seeker who fled a decade of brutal battering by her husband, and whose case has been pending for fourteen years—still without a decision—exemplifies the degree of controversy surrounding this issue.

The reasons for the opposition to extending protection to Rody, and women like her who have fled battering and other forms of gender-based violence, are varied and complicated. But if you scratch the surface of the opposition, one of the reasons you are most often to uncover is the fear of floodgates. Violence against women is widespread around the world, and there are many who fear that recognition of asylum for such women will result in thousands—or tens of thousands—of women arriving at the borders of the United States, seeking a safe haven.

Fear of the floodgates is not a principled reason for denying protection. But perhaps, more persuasive is the fact that the fear of floodgates is unfounded. The experience of the U.S. and other countries has shown that extending refugee protection does not result in a deluge of women asylum seekers.

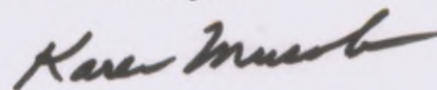
As many of you know, the landmark case in protecting women asylum seekers involved Fauziya Kassindja (*Matter of Kasinga*), a young woman who fled Togo in order to escape female genital cutting (FGC) and forced marriage. I represented Ms. Kassindja, and during the litigation of her case, I often publicly debated those who argued against a grant of asylum. These opponents observed that millions of women a year are subject to FGC, and predicted that a good percentage of them would arrive on our doorsteps if the U.S. recognized FGC as a basis of asylum. The U.S. did just that; Fauziya Kassindja was granted asylum, but the dire predictions of a flood of women seeking asylum never materialized. In fact a publication of the U.S. immigration authorities reported that “[a]lthough genital mutilation is practiced on many women around the world, INS has not seen an appreciable increase in the number of claims based on FGM” after the *Kasinga* decision. In this same publication, the immigration authorities explicitly stated that they did not expect to see a large number of claims if the U.S. recognized domestic violence as a basis of asylum.

The experience of Canada provides clear evidence that countries which recognize gender asylum do not experience a floodgates of women. In 1993 Canada became the first country in the world to accept that women fleeing gender-related persecution qualified for refugee protection. Since 1993 it has maintained statistics on gender asylum. Canada has reported that there was no explosion of claims; to the contrary, gender claims have consistently constituted only a minuscule fraction of Canada's total claims.

There are many practical reasons why the number of women asylum seekers remains so low. First, women who would have legitimate claims for asylum often come from countries where they have few or no rights, which limits their ability to leave their countries in search of protection. Second, they are frequently—if not always—primary caretakers for their children and extended family. Thus they often have to choose between leaving family behind, or exposing them to the risks of travel to the potential country of refuge. Finally, women asylum seekers often have little control over family resources, making it impossible for them to have the means to travel to a country where they might seek asylum.

Although the reality contradicts the myth of the floodgates, this fear continues to exist. Not only is it time to debunk the floodgates argument—it is also time to respond to it with a principled and pragmatic approach. The just response to the fear of the floodgates is not to turn away those seeking protection, but to offer them protection while addressing the underlying conditions that caused them to flee their homelands. This root cause approach is both principled and practical—and it links refugee protection with foreign policy choices. Specifically, if the United States does not want to accept large numbers of women refugees from a particular country, it should use its influence to pressure that country to put an end to policies and practices that violate the fundamental rights of its women. CGRS is committed to addressing the root causes, as well as assuring protection to women refugees; we appreciate your support as we work towards progress on both fronts.

With warmest regards,



Karen Musalo, Director



## Introduction and Program Areas

Founded in 1999, CGRS advocates for women seeking protection from grave human rights abuses such as honor killings, female genital cutting (FGC), domestic violence, human trafficking, and sexual slavery. The Center plays a key role in protecting women fleeing violations of their fundamental rights by serving as a central clearinghouse for information, assistance, training, advocacy, litigation, and policy work on their behalf. CGRS also engages in human rights fact-finding and advocacy in order to address the human rights violations which cause the need for refugee protection.



### CGRS's Program Areas

- Providing training and technical assistance to attorneys representing refugee women with the goals of improving the quality of legal representation and expanding the resources available to advocates.
- Tracking and monitoring gender asylum decisions to introduce unprecedented transparency and accountability into the asylum system, and to inform policy advocacy.
- Engaging in appellate litigation at the Board of Immigration Appeals and the federal courts to positively impact evolving precedent.
- Crafting and implementing advocacy strategies to influence national policy on refugee protection.
- Engaging in leadership development and training of law and undergraduate students, by involving them in CGRS's work and by providing clinical educational opportunities and internships.
- Educating the public through effective use of the media, public speaking engagements, and publications.
- Collaborating with an international network of advocates and scholars in refugee-receiving countries to expand legal protection for women fleeing human rights violations, and in refugee-sending countries to address the root causes of their flight.



## Training and Technical Assistance

CGRS provides direct one-on-one assistance to attorneys representing women asylum seekers in order to improve the quality of legal representation and increase the number of asylum grants. The Center advises on legal theory and strategy, provides feedback on briefs and other legal documents, collects and shares legal materials, researches country conditions, and connects attorneys working on similar cases. Advocates can also access legal and country conditions materials directly from CGRS's website. Attorneys routinely report that CGRS's assistance makes a critical difference in the positive outcome of their cases.

Over the past year, CGRS provided technical assistance to attorneys in over 500 new cases, and it advised an additional 800 attorneys with ongoing cases. These numbers do not include the attorneys who went directly to CGRS's website—which logs an average of 8,400 visits per month—for information and resources.

The Center's staff author scholarly articles and practice advisories to further support attorneys and advance cutting-edge legal theories. CGRS publications are frequently used in trainings across the country and are widely cited. In 2008, CGRS staff and former law students and interns published articles on a range of topics, including:

- *The Implementation of the One-Year Bar to Asylum*, by Karen Musalo and Marcelle Rice
- *Kasinga's Protection Undermined? Recent Developments in Female Genital Cutting Jurisprudence*, by Lisa Frydman and Kim Thuy Seelinger
- *Gang-related Asylum Claims: An Overview and Prescription*, by Matthew Lister

CGRS staff also serve the broader community by participating in local, national, and international conferences and workshops. In 2008, CGRS presented to hundreds of attorneys and other advocates at 31 local, national, and international forums on issues such as gender asylum, women's rights, and human rights.

"Thank you for the assistance and for getting it to me the same day. The information was very useful and filled several gaps in the info we had and bolstered other points we were trying to make. Receiving it yesterday was crucial because we were rushing to file the documents before a final decision was made at the asylum office. My client was very happy with the finished product and very grateful for your assistance."

—Robert A. Condry  
Immigration Law Office, LLC  
Charleston, SC

"I am just writing to let you know that I heard today that we were able to secure asylum in the case you helped us with in September. It is, most certainly, as much a tribute to the work that CGRS does every day as it is to the effort of the attorneys who worked on the case and the courage of our client. I wanted to thank you again for your help and guidance."

—Joseph Azam, Associate  
Willkie Farr & Gallagher LLP  
New York, NY

"Wow, this is incredibly helpful. Thank you so much for this! I am only just beginning my legal career although I already have become painfully aware of the special challenges that women refugees face and really support the work that you do!"

—Heather Axford, Central  
American Legal Assistance  
Brooklyn, NY

## Tracking and Monitoring Gender Asylum Decisions

CGRS staff follows up with attorneys after asylum interviews and hearings in order to find out what happened in their cases, provide any additional assistance, and collect materials to share. In 2008, CGRS tracked over 700 cases, significantly expanding its information base and pool of resources it is able to share with others. Attorneys report that the sample briefs and decisions CGRS provides are integral to crafting legal theories and arguments in their cases.

Through tracking and monitoring asylum cases, CGRS identifies decision-making trends, monitors developments in law and policy, and learns about and becomes involved in cases likely to set precedent. CGRS's tracking and monitoring work is vital to gender asylum advocacy because the U. S. immigration service maintains no statistics on gender-based claims, and the vast majority of asylum decisions are unpublished and unavailable in any research database. The result of this agency practice has been an alarming lack of transparency, making it difficult to hold decision-makers accountable to their obligations under

"I am very grateful for your swift response to my requests and the information you have duly furnished me in this regard. I appreciate you taking the time out of your busy schedule to so ably assist. Indeed, the material you have sent, does appear to adequately cut across the issues I raised—I note particularly the experts you proffer—and I have no doubt, will go a long way in advancing our case. Much thanks."

—Ollunga Samuel Ochieng  
Davis Polk & Wardwell  
New York, NY

"Thanks to CGRS for all your help. I relied almost entirely on your materials to write the brief. I really admire the work that CGRS does."

—Sarah Farnsworth  
Immigration Law Offices of Mahoney & Tomlinson  
Sacramento, CA

U.S. and international law. By following cases, collecting and sharing decisions, and publicizing trends, CGRS holds asylum officers, immigration judges, and the Board of Immigration Appeals (BIA) responsible for their decisions.

During summer 2008, staff attorney Allison Davenport mounted an incredible tracking effort. She was assisted by undergraduate student interns Blanca Hernandez and Kelsey Kofford. CGRS thanks Allison, Blanca, and Kelsey for their endeavors.



Kelsey Kofford



Allison Davenport



Blanca Hernandez

"I am writing with good news. I have a client, a woman from Colombia whose husband had abused her over a 17-year period ... today, the asylum unit sent her a Recommended Approval notice ... You had e-mailed me DV country condition materials, which proved invaluable ... Thank you for your tremendous assistance to lawyers like me."

—Kari Hong  
Law Offices of Kari E. Hong  
Portland, OR

"I must say, I am sitting here at my computer with my mouth open in awe! I cannot believe you got back to me so quickly, and I cannot believe you took the time to provide such incredible, thoughtful and helpful advice. CGRS is now one of my favorite organizations! Thank you so much. I cannot tell you how grateful I am!"

—Alexandra Stern  
UCLA law student working in the asylum clinic



## New Cases Assisted by CGRS

■ 1-10 cases   ■ 11-20 cases   ■ 21-50 cases   ■ 51+ cases

(all names in this section have been changed to protect confidentiality)

**MÉXICO**

Rosa was trapped in a relationship with an abusive common law husband who had a history of drug abuse, mental illness, and violent crime. He had imprisoned Rosa and their young children, repeatedly beat and raped her, and threatened to murder the children. Rosa sought protection from the authorities, but they failed to respond. Eventually, she was able to escape to the U.S., but was forced to leave her children behind. With CGRS assisting her attorney, Rosa was granted withholding of removal, which permits her to remain in the U.S., but does not allow her to reunite with her children.

**GUATEMALA**

Yanita is a young indigenous Quiche Maya woman. Her father deserted the family when she was young and her mother was severely disabled in an accident, leaving Yanita to raise herself. When she was about eleven, a Ladino man began raping her regularly. He justified the rapes as "pay off" of her father's alleged debt. Yanita warned him that she would contact the police, but he laughed and responded that she had no rights as an indigenous woman and that the authorities would never believe her. Terrified and desperate, Yanita finally fled to the U.S., where she is seeking asylum.

**NIGERIA**

Ajuma's husband converted to Islam, devoted himself to promoting the imposition of Sharia law, and insisted that Ajuma convert. When she would not convert, her husband began beating her so severely that she feared for her life. Ajuma attempted to escape her husband, but he always found her. When Ajuma reported her abuse, the police advised her to "go home and be a good Muslim wife." She fled to the U.S. after learning that her husband had hired someone to throw acid at her face. With CGRS assisting her pro bono attorney, Ajuma was granted asylum.

**MONGOLIA**

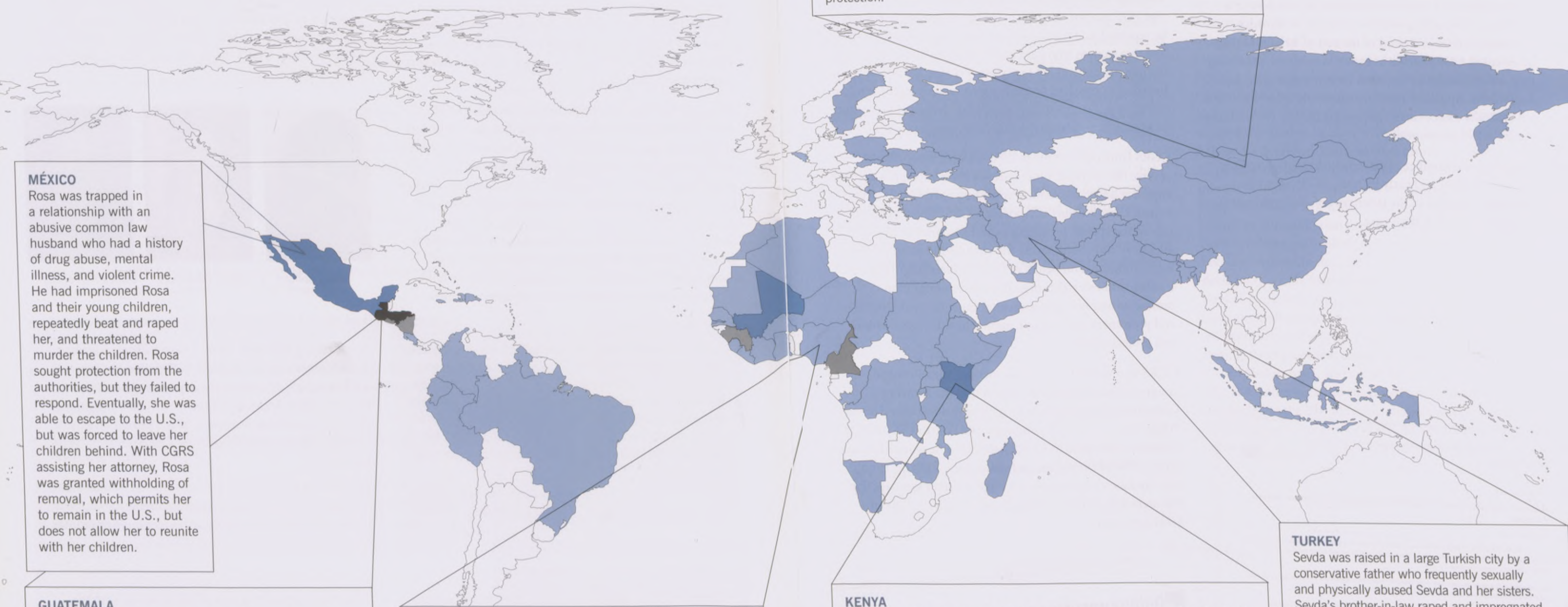
After completing university, Goland returned to her childhood village. A close friendship with a woman sparked into an intimate relationship. Word spread that she was a lesbian, despite the family's efforts to end the relationship and conceal her sexual orientation. Fearing for her safety, Goland's girlfriend married a policeman, but continued the relationship with Goland. When the policeman discovered the relationship, he attacked, harassed, and stalked Goland. Police ignored her appeals for help. After finding a death threat on the wall of her apartment, Goland fled to the U.S., where she is seeking protection.

**KENYA**

Elizabeth's father adheres to strict, traditional gender roles. He physically abused Elizabeth throughout her childhood and demanded that she undergo FGC in adolescence. Elizabeth opposes FGC and was terrified of being cut. Shortly before her eighteenth birthday, Elizabeth's mother helped her arrange to study in the U.S. Elizabeth's father pressured her to return to Kenya and undergo FGC so he could sell her into marriage for a good price. Unaware that fear of FGC could be grounds for asylum, she did not apply until five years after her arrival to the U.S. With CGRS assisting her pro bono attorney, Elizabeth was diagnosed with Post Traumatic Stress Disorder (PTSD) and clinical depression. She was granted asylum.

**TURKEY**

Sevda was raised in a large Turkish city by a conservative father who frequently sexually and physically abused Sevda and her sisters. Sevda's brother-in-law raped and impregnated her during her youth. Terrified that she would be subject to honor killing for becoming pregnant out of wedlock, Sevda followed her brother-in-law to the U.S., where she suffered his habitual physical and verbal abuse. She eventually escaped and returned to Turkey, only to discover that most of her family had turned against her. Sevda fears continued abuse by her brother-in-law and honor killing by her father. With her sister's help, she was able to return to the U.S. and is now seeking asylum.





## Appellate Advocacy

One of CGRS's overarching objectives is to become involved in cases at the federal courts and the Board of Immigration Appeals (BIA) that have the potential to impact the development of the law. In some instances, CGRS becomes directly involved in a case by co-counseling with the attorney of record, or by filing an *amicus*, "friend of the court," brief. In many other cases, CGRS serves as expert consultant, providing case consultation and feedback on briefs and other legal documents. Appellate cases are extremely labor-intensive, but critically important in advancing the law for victims of gender-based persecution.

In the face of a number of extremely discouraging BIA decisions in 2007 and early in 2008, CGRS won two significant victories in the latter part of 2008, and saw positive motion in a third case.

### Matter of A-T-

In September 2007, the BIA denied protection to a woman from Mali who was subjected to female genital cutting (FGC) as a child and who fears an impending forced marriage should she be returned to Mali. The BIA ruled that FGC is a one-time harm (rather than a harm that can be repeated, and that women endure throughout their lives), and that women who have been victimized by the practice in the past are not entitled to asylum. Because the decision was issued as a precedent decision which made it legally binding, *Matter of A-T-* immediately resulted in denials of protection to women in similar circumstances across the country.

CGRS launched a multi-faceted national campaign to reverse the decision. One aspect of the campaign was appellate advocacy, namely appealing the decision to the Fourth Circuit Court of Appeals. CGRS played a central role in the appeal, providing expert guidance to Ms. A-T-'s attorneys and coordinating the writing and filing of *amicus* briefs submitted on behalf of three influential groups—leading women's rights organizations, immigration professors and non-governmental organizations (NGOs), and prominent medical and mental health organizations and professionals.

CGRS also worked with grassroots organizations and congressional members to request that the Attorney General exercise his power to reverse this negative decision. While the case was still pending at the Fourth Circuit, A.G. Mukasey responded as CGRS had hoped he would: he took jurisdiction over the case and vacated the BIA's decision. A.G. Mukasey's decision was a huge triumph in a case that threatened great harm to significant numbers of asylum-seeking women.

### Bah v. Mukasey

In his written opinion in *Matter of A-T-*, A.G. Mukasey cited *Bah v. Mukasey*, another CGRS appellate victory addressing the same issues raised in *A-T-*, but at the Second Circuit Court of Appeals. CGRS had been invited by the Second Circuit to file an *amicus* brief in the related cases of three Guinean women, each of whom had suffered FGC in the past but were denied relief due to the BIA's decision in *Matter of A-T-*. Despite the short time-frame in which to file, CGRS submitted an *amicus* brief, as well as two reply briefs to the government's arguments that the women did not qualify for protection. In a powerful decision issued on June 11, 2008, the Second Circuit rejected the BIA's reasoning in *A-T-*. The court ruled that the BIA had committed "obvious" errors in denying the appeals of the three women, who feared for their own and their daughters' safety if they were forced to return. Furthermore, it adopted several of CGRS's arguments as to why women who have suffered past FGC may be eligible for protection.

### K.A. v Mukasey

CGRS filed an *amicus* brief before the Ninth Circuit Court of Appeals on behalf of Ms. K.A., an Eritrean asylum seeker who was victimized by FGC as a child, but whose attorney had failed to include this critical fact in Ms. K.A.'s request for asylum. Ms. K.A. obtained new counsel and sought permission to reopen her case and seek asylum based on her previous attorney's failure to raise her past FGC—a motion that should have been granted under Ninth Circuit precedent that women who have suffered past FGC may be eligible for asylum. The BIA, however, rejected the motion because of its decision in *Matter of A-T-* and a Supreme Court decision known as "*Brand X*," permitting agency decisions to overrule federal court precedent in certain limited circumstances. The BIA also failed to consider Ms. K.A.'s claim for a form of relief known as "humanitarian asylum," which can be granted in cases involving particularly serious past persecution. CGRS became involved in the case to preserve the Ninth Circuit's decision (the only federal decision that provides this level of protection in cases of past FGC), to advocate for humanitarian asylum, and to challenge the government's attempts to broadly apply *Brand X* to overrule federal immigration precedent across the country. Shortly after CGRS filed its brief, lawyers for the government contacted Ms. K.A.'s attorneys and suggested that the case be remanded to the BIA to reconsider its decision denying Ms. K.A.'s request to reopen her case. As a result of all of these efforts, Ms. K.A. was granted asylum in June 2009.

Mukasey Vacates Panel's Decision Denying Asylum to Malian Woman - NYTimes.com  
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The New York Times  
nytimes.com

September 23, 2008

#### Mukasey Vacates Panel's Decision Denying Asylum to Malian Woman

By THYMAINE LEE

Attorney General Michael B. Mukasey on Monday vacated a decision by a federal immigration board that had denied asylum for a Malian woman who said she feared genital mutilation and forced marriage to a first cousin if she were returned to Mali.

Mr. Mukasey's ruling sends the case back to the Board of Immigration Appeals for reconsideration. Women's and human rights groups had sought Mr. Mukasey's intervention.

The board had denied asylum to the woman, Alima Traore, 28, last year and again in April. In doing so, it noted that Ms. Traore's genitals had been cut as a child and said that while "reprehensible," the mutilation could not be repeated.

"The loss of a limb also gives rise to enduring harm," the board said then, but noted that it would not be a good enough reason to grant asylum.

Mr. Mukasey called that basis flawed. "As several courts have recognized, female genital mutilation is indeed capable of repetition," Mr. Mukasey's order said.

Ms. Traore, who was not identified in the decision but had been identified in The New York Times, had been ordered by the board to be sent back to Mali, where her father has said he will force her to marry a first cousin, Ms. Traore has said. She said that if she has a female child, she fears the child will face similar genital cutting.

"The decision that the attorney general vacated was a decision that was just so wrongheaded and wrongly decided and damaging to women who are seeking asylum on the basis of female genital cutting," said Karen Musalo, the director of the Center for Gender and Refugee Studies at Hastings College of the Law.

Ms. Traore has lived in the United States since 2000. She arrived on a tourist visa and stayed on a student visa while studying nursing. Her student visa expired in 2003.

Thousands of women in Mali have undergone genital cutting, according to State Department reports.

#### baltimoresun.com

##### A right to asylum?

Case rejected, genital mutilation victim still fighting to stay in U.S.  
By Matthew Hay Brown | Sun reporter  
July 8, 2008

WASHINGTON - Growing up in the West African nation of Mali, Alima Traore assumed that girls everywhere had to undergo the procedure.

"In my country, it is usually an old lady" who performs the crude surgery, the 28-year-old woman said during an interview in her attorney's *Rockville* office. "They have a traditional knife for it. They cut your intimate parts. This knife is used for many girls."

It wasn't until Traore came to the United States eight years ago that she learned that female genital mutilation has been condemned the world over as a human rights abuse. Now that she's here - she has been living in Montgomery County since 2000 - she doesn't want to go back.

Traore's fight against deportation - her student visa expired in 2003 - has put her at the center of a growing dispute between rights groups and the Bush administration over whether victims of the practice also known as female circumcision, or female genital cutting, qualify for asylum here.

In considering her case last fall, the Board of Immigration Appeals described the "infliction of FGM" as "reprehensible." But the board, a tribunal within the Department of Justice, ruled that Traore does not have a well-founded fear of future persecution if she were to return to Mali, because the damage, though permanent, has already been done.

That interpretation, which now is binding on immigration judges, has drawn criticism from rights advocates, physicians and others, who say it defies federal case law and reverses the board's own reasoning in earlier, similar cases.

Karen Musalo, director of the Center for Gender and Refugee Studies at Hastings College of the Law, called the decision "a tremendous victory for women who are seeking asylum on the basis of female genital cutting."

June 11, 2008

#### NY court grants 3 women new chance to stay in US

By THE ASSOCIATED PRESS

Filed at 5:50 p.m. ET

NEW YORK (AP) -- A court ordered the U.S. government on Wednesday to reconsider the asylum requests of three women who suffered genital mutilation in Guinea, saying it was "deeply disturbed" their claims were not taken more seriously.

The 2nd U.S. Circuit Court of Appeals in Manhattan said the Board of Immigration Appeals should have presumed the women would face more harm after undergoing genital mutilation, rather than viewing it as a one-time act.

The three-judge panel said the U.S. government should be required to prove the women would be safe from further persecution in their homeland. It noted instances in which women are repeatedly subjected to genital mutilation and said the women also can face other forms of persecution.

It cited a 2004 State Department Country Report on Human Rights Practices for Guinea, which concluded that domestic violence against women was common, that police rarely intervened and that women were commonly subject to crimes such as rape and sex trafficking.

Ana C. Reyes, an attorney for the Center for Gender and Refugee Studies in Washington, called the ruling "a tremendous victory for women who are seeking asylum on the basis of female genital cutting."

The New York Times  
nytimes.com

June 22, 2008  
Editorial

#### A Victory for Women

Three women from Guinea won a court victory in Manhattan this month in their struggle to win asylum as victims of the barbaric form of persecution known as female genital cutting. In doing so, they have shined a light on the urgent need for consistent humane policies that treat women's rights as fundamental human rights.

The government isn't there yet, judging from the withering opinion of a three-judge panel of the United States Court of Appeals for the Second Circuit. Ruling unanimously, the judges said the Board of Immigration Appeals, the highest immigration tribunal in the country, had committed "significant errors" and ignored its own regulations in denying asylum to the women, Salimatou Bah, Mariama Diallo and Haby Diallo. It ordered the board to reconsider the cases.

Among other disturbing misjudgments, the panel said, the board had wrongly assumed that the women were safe from future persecution because their genitals had already been cut. The board had likened the women's injuries to the loss of a limb—a bad assumption not something that happens more than once.



National Policy Advocacy

CGRS seeks to positively impact law and policy affecting refugee women not only through litigation, but also through a range of advocacy efforts that are informed by its program work. CGRS has found this to be an extremely effective tool in reversing negative decisions in individual cases, as well as a means to influence broader policy changes at the national level.

As the central repository for information about individual cases from across the country, CGRS is uniquely positioned to engage in a range of advocacy activities focused on gender-based asylum and refugee rights. The Center's technical assistance and tracking and monitoring programs allow CGRS to identify decision-making trends that are best addressed at the national level, often in partnership with grassroots activists.

In 2008, CGRS joined a working group comprised of leading refugee rights NGOs focused on improving the United States' asylum law and system. The group has identified numerous obstacles to protection of *bona fide* refugees under the current refugee regime, and has suggested both legislative and regulatory solutions to address them. The group's recommendations have been sent to the Departments of Homeland Security (DHS) and

Justice (DOJ). CGRS's participation has brought specific expertise to bear on asylum issues in general, and also provided guidance and crafted recommendations on issues related to gender and children's cases.

In addition to its efforts towards broad reforms of the asylum system, throughout 2008 CGRS played a central role in a focused initiative to draft legislation that would remove some of the barriers to the legal recognition of gender claims.

CGRS continues to challenge the one-year bar, a burdensome deadline that requires asylum seekers to file their applications within one year of arrival to the U.S. While Congress's intent in enacting the bar was to prevent fraud and not to return *bona fide* refugees to persecution, in practice the bar has been applied in a manner which has resulted in denials of protection to some of the most vulnerable asylum seekers. In 2008, CGRS and Hastings alum, Marcelle Rice, co-authored an article on the one-year bar, which analyzes over 200 asylum cases in which the one-year bar significantly affected the outcome. The article sets forth policy arguments for eradication of the bar. It was published in the *Hastings International and Comparative Law Review*, along with a companion piece by Dr. Stuart Lustig, a psychiatrist at UCSF, who explains the medical and psychological reasons asylum seekers are often unable to meet the one-year deadline.



Photo by Richard A. Boswell

Leadership Development

Student mentoring is a key aspect of CGRS's overall agenda and represents the Center's commitment to train future leaders in the overlapping fields of women's rights, migrants' rights, and human rights. Because CGRS is located at Hastings College of the Law—California's largest public law school—it is well-positioned to teach and mentor young, motivated law students who are searching for opportunities to work on meaningful issues. At the same time, the work of the students contributes significantly to CGRS's programs, as the students work directly on issues and projects related to the protection of women's rights.

Since CGRS's founding in 1999, 141 students and scholars have worked as volunteers, interns, or law clerks. CGRS's relationship to U.C. Hastings became more integrated into the law school's curriculum with CGRS's founding of a clinical educational program. Now in its fourth year, admission to the Refugee and Human Rights Clinic (RHRC) is highly prized by Hastings law students, and its existence has become an important vehicle by which the school recruits prospective students. The Clinic provides law students with practical and theoretical training in refugee and international human rights advocacy, including women's rights issues. This has both national and global impact because many of these students go on to positions where they are actively engaged in the practice of refugee and human rights law and advocacy.

CGRS also provides training and mentoring to law students who come to the Center for summer or year-long internships. Law students from Yale, Stanford, Boalt, and the University of Texas at Austin, as well as Hastings, interned at CGRS in the past year. Furthermore, CGRS's mentoring is not limited to law students. The Center has attracted undergraduate and non-law graduate students from universities across the country. In 2008, non-law students from universities such as Harvard, Cornell, U.C. Berkeley, and U.C. Davis interned and volunteered at CGRS.



(Rear row, from left to right): Erin Cipolla, Gillian Sonnad, Michael Soto, and Cara Hughes; (Middle row, from left to right): Mani Khamvongsa, Aimee Logan, Morgan Weibel, and Lisl Duncan; (Front row, from left to right): Kim Thuy Seelinger and Karen Musalo

"My clinic experience was the highlight of my legal education. I loved the rare opportunity to work so closely with professors and collaborate with fellow students. My semester with the RHRC strengthened my conviction to work for human rights and will forever shape how I view my role in the legal profession."

—Tsering Kheyap

"The Refugee and Human Rights Clinic gave me the rare opportunity to conduct human rights research, fact-finding, and report writing—all with an eye to effective strategies and close supervision. I could not have asked for a better experience for personal and professional growth."

—Elisabeth Pellegrin de Liendo

"The clinic was a wonderful opportunity of being able to interact one on one with a client and develop her case from start to finish. It really puts a human face to our legal studies. I would definitely recommend the experience to anyone interested in this area of law, especially since it gives you the practical experience that you won't necessarily get in law school classes."

—Yasmin Macariola



Public Education through Effective Use of the Media

CGRS works with the media to educate the public on a range of issues, including gender asylum, women's rights, human rights, and the root causes of global migration. Recent press coverage on immigrants and immigration have all too often reflected the viewpoint of restrictionist groups, blaming immigrants for a host of social problems. In addition, the right to asylum based on gender-persecution remains a contentious issue in the public discourse. Anti-immigrant forces continue to assert that granting asylum to those fleeing gender-specific persecution will open the "floodgates" to millions of women from around the globe. CGRS has consistently secured fair and thoughtful news coverage of gender asylum, human rights, and migration issues, as well as sympathetic editorials and opinion pieces, despite this anti-immigrant climate. CGRS has also been successful in utilizing media to counter the "floodgates" argument.

Over the years, CGRS has developed a solid reputation with journalists at major media outlets and has successfully encouraged them to cover issues and cases of importance. The Center's good working relationship with the media is exemplified by the sympathetic *New York Times* coverage it was able to secure about the *A-T-* and *Bah* cases, which included three articles and one editorial. CGRS also authors opinion articles, such as Karen Musalo's 2008 article, "Recognizing Women's Rights as Human Rights," which appeared in *Perspectives*, a publication of Grantmakers Concerned with Immigrants and Refugees. In addition to coverage in national media outlets, CGRS has also been interviewed by, and featured in, local and international publications.

The following is a partial list of media pieces with which CGRS has been directly involved over the past year:

Zainab Zakari, "FGM Asylum Cases Forge New Legal Standing," *Women's eNews*, November 25, 2008. • Erica Hagen, "Elections Hold Key to Asylum for Abused Women," *Women's eNews*, November 4, 2008. • William Fisher, "Abused Woman Waits 12 Years for Asylum," *Inter Press Service News Agency*, October 14, 2008. • William Fisher, "Immigration: Have the Inmates Taken Over the Asylum?" *The Huffington Post (E-news)*, October 11, 2008. • Julia Preston, "Woman's Asylum Case Sent Back to Review Board," *The New York Times*, September 30, 2008. • William Fisher, "Asylum Courts Mishandled Gender Violence Case," *Inter Press Service News Agency*, September 25, 2008. • Trymaine Lee, "Mukasey Vacates Panel's Decision Denying Asylum to Malian Woman," *The New York Times*, September 23, 2008. • Richard B. Schmitt, "Genital mutilation victim gets a new chance at asylum in U.S.," *The Los Angeles Times*, September 23, 2008. • Terry Frieden, "AG: Don't deport genital mutilation victim," *CNN*, September 23, 2008. • Frank Eltmann, "NY Judge Cites Abuse, OKs Honduran Kids' Asylum," *New York Daily News (A.P.)*, September 12, 2008. • Gillian Gillers, "Building Case for Abuse," *The Tico Times*, August 8, 2008. • Matthew Hay Brown, "A right to asylum?" *The Baltimore Sun*, July 8, 2008. • Luisa del Rosario, "Los derechos de la mujer son derechos humanos," *Canarias 7*, July 1, 2008. • "A Victory for Women," editorial, *The New York Times*, June 22, 2008. • Nereida Alonso, "Las leyes no se pueden quedar en el papel," *La Gaceta de Canarias*, June 21, 2008. • Luisa del Rosario, "No puedes ser negro y marica," *Canarias 7*, June 20, 2008. • Alan Feuer, "Court Rejects Decisions of Immigration Board," *The New York Times*, June 12, 2008. • Mark Hamblett, "Circuit Rebukes Immigration Board on Mutilation Ruling," *New York Law Journal*, June 12, 2008. • Larry Neumeister, "NY Court grants 3 women new chance to stay in US," *The New York Times*, June 11, 2008. • Jean Bartlett, "A Matter of Human Rights: Protecting Female Refugees," profile of Karen Musalo, *Bay Area Business Woman*, Vol. 15, No. 8, May 2008. • Stephen Manning, "Woman from Mali who underwent circumcision fights for asylum," *Associated Press*, May 3, 2008. • Larry Neumeister, "NY judges challenge government on appeal in asylum claim," *Associated Press*, April 29, 2008. • Peter Blumberg, "Human Rights Battle Hits Home," *California Lawyer*, April 2008. • Karen Musalo, "Recognizing Women's Rights as Human Rights," *Perspectives*, published by Grantmakers Concerned with Immigrants and Refugees, Volume 4, Issue 1, Spring 2008. • William Fisher, "Asylum, Another Third Rail," *The Huffington Post (E-news)*, March 3, 2008. • Frances Caballo, "In Defense of Women's Human Rights," *New Americans*, published by Grantmakers Concerned with Immigrants and Refugees, Winter 2008.

International Advocacy and Collaboration

CGRS is the leading organization in the U.S. working on the issue of gender-based asylum. Increasingly, it is a key resource at the international level, particularly for NGOs in other refugee-receiving countries that are seeking recognition of gender asylum claims and want to address this issue through similar legal and policy channels. CGRS also works closely with advocates in refugee-sending countries who are seeking to address the "root causes" that force women to flee in search of protection in the U.S. and elsewhere. The Center's work on the femicides in Latin America has been closely related to its efforts to address the root cause of refugee flows.

Collaborating With Advocates in Spain

Refugee-receiving countries around the world continue to develop their policies regarding the protection of women fleeing gender-related persecution, and CGRS is able to make positive contributions on these issues.

Over the course of the last eight years, CGRS has had a long-standing partnership with advocates in Spain, a number of whom have come to CGRS as Visiting Scholars. The Center has been gratified to see that the efforts of many of its Spanish colleagues have begun to bear fruit. In March 2007, Spain adopted a legislative provision recognizing that asylum may be granted to women persecuted because of their gender. Since the law's enactment, a number of women's asylum cases have been granted. In the past year, CGRS continued with its collaborative efforts by becoming a partner in a project launched by the Spanish refugee organization, CEAR (Comisión de Ayuda al Refugiado), entitled "Persecución por motivos de género: del contexto global al compromiso local" (or "Persecution for reasons of gender: from the global context to the local commitment"). The project will compare gender refugee protection in the U.S. and in Spain, and will examine human rights conditions for women in targeted regions of the world; it will also look at violations related to sexual orientation and sexual identity.

Addressing the Root Cause of Refugee Flows: CGRS's Work on the Femicides

CGRS's international work has extended to addressing the root cause of refugee flows.

Many asylum seekers from Latin America have fled because of the extreme and pervasive violence against women which exists in a number of countries in the region. Sadly, in many countries, this violence has manifested in the rising number of "femicides," or gender-motivated killings. For example, in Guatemala, which has the highest rates of violence against women in Latin America, more than 4,000 women have been killed since 2001, and prosecutions and convictions have been secured in less than 2% of these cases.

In addition to advocating for refugee protection for the women who have fled this gender violence, CGRS has developed research and policy initiatives to try to address the conditions which allow violence and killings of women to be committed with impunity.

Initially, CGRS focused its efforts on Guatemala, releasing two reports on the femicides. In 2008, CGRS conducted a fact-finding mission for the purpose of publishing a third



Maria Consuelo Mejia, Executive Director of Catolicas por el Derecho a Decidir, with whom CGRS is collaborating on its regional femicide project.



Norma Cruz, Director of Fundación Sobrevivientes in Guatemala, with one of her staff attorneys.







Beatriz de Leon Reyes, Judge of the Supreme Court of Guatemala. CGRS met with Magistrada de Leon Reyes during its September 2008 fact-finding visit to Guatemala.

report. This forthcoming report will discuss the impact—if any—of a newly enacted law in Guatemala which criminalizes the femicides and other forms of violence against women.

In the past year, CGRS has expanded its focus and joined a regional collaboration, headed up by a partner organization in México. As has been widely reported, México also suffers from femicides. The most notorious incidents of violence against women have been committed in the area of Ciudad Juárez, where more than 400 women have been killed, and many others have disappeared over the last thirteen years, in a situation of virtual impunity. The objectives of the regional collaboration on the femicides include the creation of an extended network of lawyers and activists, who will identify the factors contributing to the violence and impunity in each country, and help develop necessary and important social and legal measures to address this epidemic of violence.

## The Mendez Case

Since August 2007, CGRS has been working to mobilize public opinion both in Guatemala and internationally, in the case of the political murder of José Emanuel “Pepe” Méndez Dardón. Pepe was shot multiple times at close range as he was leaving his job at La Aurora International Airport. Pepe Méndez’s father, Amílcar Méndez, is the founder of CERJ (The Council of Ethnic Communities Runujel Junam), which worked throughout Guatemala’s civil war to promote and defend the rights of Guatemala’s indigenous communities. Amílcar served as a member of

the Guatemalan Congress from 1996 to 2000. He himself has survived numerous death threats and the bombing of his home, spending several periods of exile in the U.S. Pepe Méndez had also received a number of death threats, including those within a month prior to his murder.

Pepe’s co-worker, Erwin Omar Gudiel Arias, was charged with the murder. The trial against Erwin Omar Gudiel Arias ended on June 2, 2008, with a verdict of guilty and a sentence of 20 years in prison, an astonishing victory in Guatemala, a country with a 99% rate of impunity. Sadly, the victory was short-lived. On October 1, 2008, an appellate court vacated the conviction citing the trial court’s failure to provide a well-reasoned decision and ordered a new trial. The Mendez family, along with the Public Ministry, appealed the decision to the Guatemalan Supreme Court, and to date the Court has not issued a final ruling.

Despite this setback, the Mendez family is determined to keep fighting by not only bringing this individual to justice, but by seeking a prosecution of the intellectual authors of the murder. As is so often the case in Guatemala, the person who pulls the trigger is simply a paid assassin, and there are other more powerful elements who planned and financed the crime. Pepe’s case remains emblematic in the struggle of all Guatemalans against impunity.



Karen Musalo with Amílcar Méndez, standing outside the Office of the Public Ministry in Guatemala.

## Supporters: CGRS Honors Its *Pro Bono* Partners

CGRS honors Ana Reyes, partner, Williams & Connolly LLP, for her extraordinary *pro bono* work on its behalf, and it congratulates the firm for its commitment to *pro bono* representation. Ana represented CGRS in its work on *Matter of A-T-* and *Bah v. Mukasey*. She wrote the highly persuasive *amicus* brief in *Matter of A-T-*, which was signed by over one hundred law professors and immigrant and refugee NGOs. In the *Bah* case, Ana authored the briefs in collaboration with CGRS attorneys, and she successfully argued before a panel of Second Circuit judges, leading to victory in the case. At issue in both cases was the question of whether women who have suffered FGC in the past are automatically disqualified from asylum protection. Ana’s brilliant legal work ultimately resulted in restoring



Ana Reyes

Photo by Diego M. Radzinichi, National Law Journal

asylum eligibility for victims of past FGC.

In addition to Ana’s work on behalf of CGRS, she has represented numerous clients at various stages of asylum proceedings before the asylum office, immigration court, and federal courts. On behalf of the Lawyer’s Committee for Civil Rights, Ana filed a brief in a significant case before the Ninth Circuit Court of Appeals, arguing that the court had improperly raised the burden of proof on asylum seekers to establish the reason for their persecution. The court amended its decision in response to the brief.

Ana serves on the *pro bono* committee at Williams & Connolly LLP. Consistent with the firm’s rich *pro bono* tradition, Williams & Connolly has represented asylum seekers, plaintiffs in civil rights lawsuits, low-income individuals in housing and wage and benefits cases in the District of Columbia, military veterans in benefits appeals, and District of Columbia parolees in parole revocation hearings. In addition to their *pro bono* legal work, Williams & Connolly LLP employees volunteer to teach and mentor low income high school students.

CGRS also wishes to recognize the following attorneys and firms who have worked closely with us over the last year on appellate litigation:

### Akin Gump Straus Hauer & Feld LLP

- Amit Kurlekar
- Steven H. Schulman
- Stacy R. Kobrick

### Reed Smith LLP

- Jayne Fleming
- Mark S. Melodia
- Margaret L. Sanner
- Lisa M. Baird
- Brian P. McKeever



Amy Saharia, member of the Williams & Connolly LLP team that worked on the *Matter of A-T-* and *Bah v. Mukasey*



Jayne Fleming, Pro Bono Counsel to Reed Smith and member of the CGRS Advisory Board’s Executive Committee



## The Judith Stronach Bequest and Women's Human Rights Fellowship

In 2004, CGRS was the beneficiary of an extraordinarily generous bequest by Judith Lee



Judith Stronach

Stronach, a Berkeley resident and long-time peace activist and philanthropist. Judith's life was dedicated to nonviolence and social justice, and she expressed an interest in CGRS's work shortly after the organization was founded in 1999.

The Center's efforts on behalf of women asylum seekers resonated with her longstanding commitment to women's rights and human rights, and she especially valued the use of law in service of these issues.

In her memory, CGRS established the Judith Stronach Women's Rights Fellowship. Each year the fellowship recognizes one or more law students whose background, idealism, and commitment to women's rights exemplify Judith's dedication to protecting the human rights of women, especially women refugees.

### 2008 Stronach Fellows



**Lindsay Harris** is a May 2009 graduate of UC Berkeley Law School (Boalt Hall). At Boalt, Lindsay directed the California Asylum Representation Clinic (CARC). Lindsay also co-chaired the Boalt Hall Committee for Human Rights and served as Symposium Editor and

a Senior Editor for the *Berkeley Journal of International Law*. Lindsay has worked on issues such as gender-related persecution and seeking a legislative response to genocide, and has represented numerous asylum seekers and HIV positive immigrants. Lindsay received the 2009 Sax Prize for Excellence in Clinical Advocacy. She will clerk for the Honorable Harry Pregerson of the Ninth Circuit Court of Appeals in 2009–10.



**Elisabeth (Liz) Pellegrin** is a May 2009 graduate of UC Hastings College of the Law. Prior to law school, she volunteered at various programs throughout Latin America. Liz has worked with asylum seekers and immigrant victims of domestic violence. During her fellowship

at CGRS and her tenure as a student of the Refugee and Human Rights Clinic, Liz extensively researched Guatemalan femicides and conducted a fact-finding trip to Guatemala. She co-authored an updated CGRS report on the femicides (publication forthcoming). Liz further pursued her interests through a judicial externship with the immigration court, an internship at the Lawyers' Committee for Civil Rights, volunteering with the National Lawyers Guild, and membership in the *Hastings Race & Poverty Law Journal*.

**Karla Vargas** is a dual degree candidate at the University of Texas School of Law and the LBJ School of Public Affairs. As a student in the immigration and domestic violence clinics, she represented immigrants in removal proceedings and domestic violence survivors in family law proceedings. In addition to working with CGRS, Karla has interned with the American Civil Liberties Union of Texas and the Center for Constitutional Rights, and other nonprofits focused on social and workplace justice for immigrants. After graduation, Karla plans to represent immigrants in removal proceedings or immigrant survivors of domestic violence.



**Morgan Weibel** is a May 2009 graduate of UC Hastings College of the Law. Morgan has extensive experience in asylum, immigration, and human rights law, having worked at the UNHCR's Regional Office for the U.S. and the Caribbean, the Spanish Red Cross, with

Civil Service International at a refugee transit center in Switzerland, and as an asylum paralegal at a law firm—where she focused on gender-based and mental health claims. While at Hastings, Morgan participated in the Hastings to Haiti Partnership and the Refugee and Human Rights Clinic. Morgan also interned at the International Criminal Tribunal for Rwanda and was a judicial extern at the Trial Chambers of the International Criminal Tribunal for the former Yugoslavia.

## Donor Spotlight

### Justice Harry W. Low

CGRS is pleased to recognize the dedicated support of Honorable Harry W. Low, presiding Justice of the California Court of Appeal (1982–1992), and a neutral arbitrator and mediator with Judicial Arbitration and Mediation Services, Inc. (JAMS) in San Francisco (1992–present).



Justice Harry W. Low

Justice Low was invited to join CGRS's core circle of supporters by his close friend and Bay Area attorney, Pamela Levin. Since then, Justice Low has been involved in annual CGRS fundraising events hosted by Ms. Levin.

Justice Low contributes significantly to the Center's development efforts as a member of the Board of Directors at the California HealthCare Foundation. At the Foundation, Justice Low recommended funding CGRS's legal medical work. The California HealthCare Foundation's grants have supported CGRS's trainings for legal, medical, and mental health professionals, with the aim of raising awareness of how trauma affects refugees. The funding also enables CGRS to provide technical assistance to California advocates whose clients suffer from trauma and have difficulty filing for asylum within the required timeline.

Beyond Justice Low's distinguished service on the California Court of Appeal and his current work as a dispute resolution specialist, Justice Low served as an Insurance Commissioner with the California Department of Insurance (2000–2003), and a Judge with both the San Francisco Superior Court (1974–1983) and the San Francisco Municipal Court (1967–1974). He also worked as a Commissioner on the Workers' Compensation Appeals Board and served as the Deputy Attorney General for California in the Civil and Tax Division.

Among his other professional activities, Justice Low was President of San Francisco's Human Rights Commission (1999–2000), San Francisco's Police Commission (1992–1996), the Appellate Judge Conference of the American Bar Association (1991), and the Chinese American Citizens Alliance (1981–1991). His achievements have been recognized through honors, such as the Judge Lowell Jensen Public Service Award (Boalt Hall School of Law, UC Berkeley, 2000) and the Spirit of Excellence Award (American Bar Association, 2002).

CGRS is proud to count Justice Low among the Center's most committed supporters.

### Kazan, McClain, Abrams, Fernandez, Lyons, Greenwood, Harley & Oberman Foundation

CGRS is grateful to the Kazan, McClain, Abrams, Fernandez, Lyons, Greenwood, Harley & Oberman Foundation for its generous support of the Center since 2001. CGRS Advisory Board Member, Denise Abrams, and Kazan have played an invaluable role providing consistent funding to CGRS and supporting the Center's clinical teaching fellowship, now entering its second year. Thank you to Denise and the Kazan Foundation.



(From left to right): Gordon Greenwood, Dianna Lyons, Denise Abrams, Steven Kazan, and David McClain.



CGRS Donors (donations received between January 1, 2008, and December 31, 2008)

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Lisa Frydman  
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Kim Thuy Seelinger  
Clinical Teaching Fellow, Refugee and Human Rights Clinic



Camellia Rodriguez-SackByrne  
Development and Communications Associate



Amberjae Freeman  
Program Assistant

Staff Update

CGRS bids a fond farewell to staff members Felecia Bartow, Associate Director, Diana Rodriguez-Wong, Program Coordinator, and Ana Martinez, Program and Administrative Assistant. Felecia, Diana and Ana each contributed immensely to CGRS's work and success during their tenure.

CGRS welcomes new staff members Shawn Roberts, Associate Director and Senior Staff Attorney, Amberjae Freeman, Program Assistant, and Camellia Rodriguez-SackByrne, Development and Communications Associate. The Center is delighted to add such talented staff to its team.



Felecia Bartow



Diana Rodriguez-Wong



Ana Martinez

Financial Report

Fiscal Year 2008 (7/1/07-6/30/08)<sup>1</sup>

EXPENSES

Total Salaries & Benefits	\$453,566
Travel and Memberships	\$16,634
Consulting	\$8,918
Total Other Direct Costs	\$42,901

Total Expenses \$522,019

INCOME

Foundation Funding	\$300,887
Individual Donors	\$36,940
Law Firm/Corporate Donors	\$35,225
U.C. Hastings & other income <sup>1</sup>	\$151,269

Total Income \$524,321

<sup>1</sup> Includes salary/benefits for CGRS Director Karen Musalo in her capacity as a Clinical Professor of Law at U.C. Hastings.



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## Messages from CGRS's Executive Committee Members

"CGRS is leading the movement to protect the rights of refugee women in the United States and to end the abuses that cause these women to flee their countries. Through a combination of legal work, education, and advocacy, CGRS not only increases women's access to justice; it helps build the capacity of nonprofit and pro bono legal services providers throughout the country."

—Lina Avidan

"CGRS is a unique organization. It is effective, inspiring and enormously valuable to anyone interested in advancing the human rights of women and refugees. Karen Musalo provides the inspiration that makes CGRS such a great success. I have had the privilege of working with her for nearly a decade. Karen's superior intellect, fierce determination and spirit of generosity are unmatched. It is no wonder, given that combination of characteristics, that CGRS has achieved global notoriety for its work on behalf of women. It is well deserved."

—Jayne Fleming

"I have known Karen Musalo for over 25 years and greatly admire her work and dedication to women's and human rights around the world. I joined CGRS to help promote the vital work of the organization. During my service as a Board member, I have been continually impressed with the staff's hard work and dedication, and their exceptional results advocating for women and refugees globally."

—Denise Abrams

"One of the few bright spots in the field of immigrant rights can be found in the successes advanced by CGRS. CGRS staff have accomplished this herculean task through the careful coalition building, advocacy in the courts and counsel to members of Congress."

—Richard Boswell

"I am proud to be a member of CGRS's Advisory Board all these years. Karen Musalo and her staff never cease to amaze and inspire me. Their overwhelming success in bringing refuge to women from all over the world who have endured unspeakable acts and tragedy is a testament to CGRS's consummate ability and heart."

—Minette Kwok

"Intrepid, tireless and savvy, CGRS stands out for their policy work and cutting-edged litigation, both nationally and internationally, on behalf of refugee women and girls. As a board member, I'm inspired every time I meet with them."

—Sara Campos

"CGRS provides a crucial lifeline for women. Often, when people think of helping women who are fleeing violence, they imagine a shelter. What is often overlooked is the policy and legal infrastructure needed to support women. This is the critical role CGRS plays for women who come to the U.S. to seek refuge from the violence they suffer in their home countries. Without CGRS, many women would be stuck in life-threatening situations and it would be harder to find the justice in our legal system."

—Inger Brinck

\*Executive Committee Members





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